

WILLKIE FARR & GALLAGHER_{LLP}

Charles D. Cording

June 6, 2023

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8154
Fax: 212 728 8111

Via ECF and Email

The Honorable Katherine Polk Failla
U.S. District Court, S.D.N.Y.
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *In re Tether and Bitfinex Crypto Asset Litigation*, 19-CV-09236 (KPF)

Dear Judge Failla:

I write on behalf of Defendant Philip G. Potter in opposition to Plaintiffs' June 1, 2023 letter (the "June 1 Letter"), requesting a 90-day extension of the case schedule, with the exception of the June 22, 2023 deadline to exchange privilege logs. (Dkt. No. 374). To avoid duplication, Mr. Potter joins the arguments raised in the Bitfinex-Tether Defendants' (the "B/T Defendants") response as well as Defendant Poloniex LLC's response.

Despite receiving an extension of the case schedule in February (Dkt. No. 298), Plaintiffs have failed to prosecute their claims with any urgency despite the schedule's long-standing court deadlines. Although the June 1 Letter cites delays in the B/T Defendants' production of certain trading records, it is unclear how that resulted in a complete standstill of any depositions being taken. For months, Plaintiffs knew of the July 24, 2023 fact discovery deadline, and yet, only in these past few weeks, have they finally started noticing depositions, and now seek an extension to facilitate the scheduling of these and potentially other depositions. Indeed, Mr. Potter was first noticed of his deposition only on May 26, 2023. To be sure, none of the delays cited in the June 1 Letter are attributable to Mr. Potter.

Overall, Plaintiffs' June 1 Letter fails to establish why they should be entitled to another extension that would push out this litigation—now in its fourth year—by an additional three months. Further delay would only incur further costs for Mr. Potter. For the avoidance of doubt, Mr. Potter would not oppose any reasonable requests to extend the July 24 deadline for specific depositions on a witness-by-witness basis to the extent any witnesses, including Mr. Potter, have scheduling conflicts that would prevent them from sitting for a deposition before July 24, especially given Plaintiffs' 11th hour push to schedule 15 depositions prior to the close of fact discovery.

I remain available should the Court have any questions, and I look forward to further discussing this matter at the June 7 virtual conference.

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Respectfully submitted,

/s/ Charles D. Cording

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WILLKIE FARR & GALLAGHER LLP

787 Seventh Avenue

New York, NY 10019

(212) 728-8154

ccording@willkie.com

Attorneys for Defendant Philip G. Potter

cc: All Counsel of Record